

### **REMARKS**

Claims 2-8, 10-14, 17 and 19 remain in the application. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested

### **Claim Rejections**

#### ***Rejections Under 35 U.S.C. § 103***

Claims 2-5, 10-13, 17 and 19 were rejected under 35 U.S.C. § 103(a), as being obvious over Pier et al. in view of Au.

In response to this rejection and pursuant to 37 C.F.R. 1.131 and M.P.E.P. § 715 *et seq.*, Applicant submits the attached “Affidavit Pursuant to 37 C.F.R. 1.131” to antedate (or “swear behind”) the Pier et al. reference. The earliest date upon which the Pier et al. reference was filed on May 1, 2002. However, as set forth in the attached Affidavit, Applicant conceived the claimed invention and reduced it to practice by no later than August 15, 2001 (over eight (8) months *before* the filing date of the Pier et al. reference). [See, Exhibit 1, 1.131 Affidavit, ¶ 3] The statement regarding date of conception is supported by the IBM Invention Disclosure Form that was last modified on August 15, 2001 and printed on August 16, 2001.

Also, this Invention Disclosure Form was mailed to the undersigned attorney on January 15, 2002 [See, Exhibit 1, 1.131 Affidavit, ¶ 8] and the undersigned attorney hereby attests that he received this disclosure on or about January 18, 2002 – about four (4) months before Pier et al. was filed.

Thus, given that Applicant has shown that he invented the claimed invention prior to the earliest date upon which Pier et al. could claim priority and given that the Pier et al. reference does not claim the same invention as recited in the above-listed claims and given that the Pier et al. reference was first published after the filing date of the present application, it is believed that Applicant has antedated, and thereby overcome, the Pier et al. reference pursuant to

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37 C.F.R. 1.131 and M.P.E.P. § 715.

For these reasons, it is believed that this rejection has been overcome and, therefore, Applicant respectfully requests that all remaining claims be allowed.

### **CONCLUSION**

Applicant believes that the rejections have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that all remaining claims be allowed and that a timely Notice of Allowance be issued.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 503535.

07/25/2007

Date



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